

## 21 C.J.S. Courts § 347

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### Courts

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### X. Clerks of Courts

#### E. Deputies and Assistants

## § 347. Compensation

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  6, 10, 33

**The authority to fix the salaries and compensation of deputy clerks or assistants to the clerk may be vested in the clerk, a local governing body, the state legislature, or the court.**

Under some statutory provisions, the authority to fix the compensation of deputy clerks or assistants to the clerk is vested in the clerk,<sup>1</sup> a local governing body,<sup>2</sup> or the state legislature.<sup>3</sup> In some states, the employees of constitutionally elected officers of a county, such as the clerk, are considered employees of the elected officer, not employees of the county.<sup>4</sup> Accordingly, under such a system, the court clerk has authority to grant pay increases for his or her employees where there is money in the clerk's budget, as approved by the commission, to pay for those salary increases.<sup>5</sup>

Under a constitutional provision stipulating that the duties and compensation of officers and employees of the court are to be prescribed by the court, any decision to promote, demote, assign additional duties to, or reduce the pay of a deputy clerk that affects that clerk's courtroom duties can only be made with the consent of that clerk's supervising judge.<sup>6</sup>

### *Proceedings to recover salary.*

Mandamus may be an appropriate remedy for a court clerk to seek payment of salaries of his or her deputies and assistants where the clerk claims that the employees' salaries have been properly approved but have not been paid for a reason not authorized by law.<sup>7</sup>

Footnotes

- 1 Okla.—Petuskey v. Cannon, 1987 OK 74, 742 P.2d 1117 (Okla. 1987).
- 2 Minn.—Besemer v. Board of County Com'rs, Brown County, 357 N.W.2d 365 (Minn. Ct. App. 1984).
- 3 La.—State ex rel. Orleans Parish Criminal Dist. Court v. City of New Orleans ex rel. Landrieu, 126 So. 3d 762 (La. Ct. App. 4th Cir. 2013).
- 4 Ga.—Boswell v. Bramlett, 274 Ga. 50, 549 S.E.2d 100 (2001) (holding modified on other grounds by, Board of Com'rs of Dougherty County v. Saba, 278 Ga. 176, 598 S.E.2d 437 (2004)); Gwinnett County v. Yates, 265 Ga. 504, 458 S.E.2d 791 (1995).
- 5 Ga.—Boswell v. Bramlett, 274 Ga. 50, 549 S.E.2d 100 (2001) (holding modified on other grounds by, Board of Com'rs of Dougherty County v. Saba, 278 Ga. 176, 598 S.E.2d 437 (2004)).
- 6 W. Va.—State ex rel. Core v. Merrifield, 202 W. Va. 100, 502 S.E.2d 197 (1998).
- 7 Ga.—Boswell v. Bramlett, 274 Ga. 50, 549 S.E.2d 100 (2001) (holding modified on other grounds by, Board of Com'rs of Dougherty County v. Saba, 278 Ga. 176, 598 S.E.2d 437 (2004)).

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